

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

In the Matter of

Telecommunications Services Inside Wiring

Customer Premises Equipment

CS Docket No. 95-184

In the Matter of

Implementation of the Cable Television  
Consumer Protection and Competition Act of 1992:

Cable Home Wiring

DOCKET FILE COPY ORIGINAL

MM Docket No. 92-260

**COMMENTS OF SBC COMMUNICATIONS INC.**

SBC Communications Inc., by and through its attorneys, on behalf of its subsidiaries, Southwestern Bell Telephone Company ("SWBT"), SBC Media Ventures L. P. ("SBC-MV"), Southwestern Bell Video Services ("SBVS"), Pacific Bell, and Pacific Bell Video Services ("PBVS") (referred to herein collectively as "SBC") hereby submits comments in response to the Commission's *Notice of Proposed Rulemaking*.<sup>1</sup>

SBC generally supports the Commission's proposed rules and offers suggested modifications and comments as follows: 1. The cable wiring rules should not provide non-owner occupants with a right to purchase their cable home wiring.

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<sup>1</sup> *Further Notice of Proposed Rulemaking*, FCC 97-304 (released August 28, 1997) ("NPRM").

2. The incumbent service provider's 30-day election period should be reduced to 14 days. 3. Penalties for failure to remove cable wiring once elected by the incumbent are currently unnecessary. 4. The sale price of home wiring should be negotiated by the parties. 5. Requiring the incumbent provider to share molding or conduit must be conditioned on the MDU owner's approval and negotiated compensation. 6. The transfer of cable wiring upon installation should result from negotiated agreement between the MDU owner and cable wiring provider.

**I. WITH LIMITED EXCEPTION, THE PROPOSED RULES PROPERLY BALANCE THE RIGHTS OF INCUMBENT PROVIDERS, MDU OWNERS AND SUBSCRIBERS.**

The *NPRM* proposes detailed rules for the disposition of cable inside wiring in multiple unit dwellings ("MDUs") with non-"loop through" wiring. The proposed rules establish procedure for the disposition of both cable home run wiring<sup>2</sup> and cable home wiring<sup>3</sup> when an incumbent provider's service is terminated on either a building-by-building basis or unit-by-unit.

SBC generally supports the proposed rules which will ultimately promote choice in video services and encourage competition among video programming providers. For the most part, the proposed rules place the decision making process for the disposition of the cable wiring where it belongs – between the service provider and the building owner.

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<sup>2</sup> Cable home run wiring runs from the point at which the wiring becomes dedicated to serving an individual unit to the demarcation point. *NPRM*, para. 4.

<sup>3</sup> Cable home wiring refers to the internal wiring contained within the premises of a subscriber which begins at the demarcation point, not including any active elements such as amplifiers, converters or decoder boxes or remote control units. *NPRM*, para 7, n. 13.

A. Building Owners Should Have The Right To Purchase Inside Wiring.

One of the Commission's goals for cable wiring is to promote subscribers' control over their video programming services. To that end, the Commission proposes that subscribers have the right to purchase their cable home wiring. The Commission suggests that the incumbent provider should be required to sell to the subscriber any cable home wiring that the incumbent provider otherwise intends to remove. This will protect the subscriber from unnecessary disruption associated with removal of home wiring whether they intend to subscribe to an alternative service. *NPRM*, para. 43.

SBC agrees to the extent that subscribers own their premises. However, incumbent providers should not be required to sell cable home wiring or home run wiring to non-owner occupants. Only the MDU owner or the alternative video provider should have the option to purchase cable home wiring of non-owner occupied premises. Giving non-owner occupants ownership rights over wiring will unnecessarily complicate the disposition of the cable home wiring when the non-owner occupant relinquishes occupancy.

B. An Incumbent's 30-Day Election Period Should Be Reduced To 14 Days.

The proposed rules permit an incumbent service provider thirty days in which to choose to sell, abandon or remove home run wiring or home wiring after notice from the MDU owner terminating the incumbent provider's service. *NPRM*, paras. 35, 39. Thirty days is too long. By permitting a prolonged election period, the rules unnecessarily delay the consumer's transition to an alternative provider and the alternative provider's initiation of service -- holding the transaction in limbo for an

excessive amount of time. SBC suggests that fourteen days would be reasonable and sufficient to permit an incumbent provider to make a reasoned choice.

**II. THE COMMISSION SHOULD DEFER REGULATION UNTIL AND ONLY WHEN CIRCUMSTANCES REQUIRE REGULATION.**

Some of the proposed rules unnecessarily inject Commission regulation into circumstances that are better regulated by the marketplace. To the extent such intrusion is unnecessary, SBC suggests that the Commission adopt a wait-and-see attitude to give the proposed procedural mechanism some time to work. If the record of events following adoption of the proposed rules demonstrates a need for government intervention, the Commission can adopt further regulation.

Specifically, the Commission should not adopt penalties for incumbent providers' failure to remove their home wiring as agreed to; abstain from adopting pricing rules but permit the parties to negotiate cable home run wiring sale prices and prices for sharing molding and conduit; and abstain from regulating the consensual transfer of cable wiring ownership at the time of installation.

**A. Market Incentives Obviate the Need for Enforcement Rules.**

The *NPRM* inquires as to the need to adopt penalties for incumbent service providers that elect to remove their home run wiring and then fail to do so. *NPRM*, para. 36. There is no need for enforcement regulation. If incumbent providers elect to remove their wiring, they have little incentive to renege on their decision. Incumbent providers will continue to do business in the community. They want to maintain good business relations with consumers and MDU owners so as not to foreclose future business

interactions with their former customers. It is not in their best interest to jeopardize their relationship with MDU owners and potential customers. On the other hand, the Commission will be certainly be informed if incumbent providers do not follow up on their election to remove home run wiring. Affected parties can bring complaints pursuant to the Commission's complaint procedures. If circumstances demonstrate the need for express regulation, the Commission can reopen the issue of enforcement and penalties in further rulemaking.

B. The Parties Should Be Permitted To Negotiate The Sale Price For Home Run Wiring.

The Commission has expressed a preference to permit the parties to negotiate the price of the incumbent provider's home run wiring. *NPRM*, para. 37. SBC agrees. Market forces will influence reasonable sale prices. Incumbent providers will have the incentive to negotiate reasonably or, by operation of the proposed rules, they will be forced to either abandon or remove their wiring. MDU owners, on the other hand, generally appear to disfavor removal of the wiring and consequently will be motivated to negotiate a reasonable sale price in order to avoid forcing the incumbent provider to elect his option to remove the wiring. However, if the Commission believes it is necessary to become involved in what really is a market issue, it should define replacement cost to include materials cost, labor costs, and other out-of-pocket costs associated with the installation of cable wiring. The Commission should not merely adopt the current charge

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for cable home wiring which does not adequately compensate the incumbent service provider.<sup>4</sup>

C. MDU Owners And Incumbent Providers Should Be Permitted To Negotiate The Transfer And Price Of Cable Wiring Upon Installation.

Similarly, the Commission should refrain from requiring video service providers to transfer home wiring and home run wiring to the MDU owner upon installation whether contracts are entered into on or after the effective date of the rules the Commission will adopt in this proceeding. *NPRM*, para. 85. Instead, the Commission should leave both the decision to transfer and the transfer price to be negotiated between the MDU owner and the service provider. Other rules provide the MDU owner with the potential to require the transfer of cable wiring. There is no need for additional Commission regulation.

III. THE ALTERNATIVE PROVIDER SHOULD BE PERMITTED TO SHARE THE INCUMBENT PROVIDER'S MOLDING OR CONDUIT WITH THE MDU OWNER'S AGREEMENT.

The Commission proposes to permit the alternative service provider to install its wiring within the existing molding or conduit, even over the incumbent provider's objection, where there is room in the molding or conduit and the MDU owner does not object. *NPRM*, para. 83. SBC supports the Commission's proposal that recognizes the MDU owner as the proper decision-maker. However, access must be conditioned on payment of compensation from the alternative service provider to the

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<sup>4</sup> Section 72.802(a)(4) establishes replacement cost as the basis for the charge for cable home wiring.

incumbent provider for the use of the incumbent's molding or conduit. The parties should be permitted to negotiate a market price for the shared molding or conduit.

#### IV. CONCLUSION

The rules proposed in this NPRM, modified as SBC suggests above, provide a workable solution to the disposition of cable wiring and should govern cable wiring whether installed before or after the adoption of these rules. In its zeal to promote competition and choice for video subscribers, however, the Commission should not substitute its regulation for that of the marketplace.

Respectfully submitted,

SBC COMMUNICATIONS INC.  
SOUTHWESTERN BELL TELEPHONE CO.  
SOUTHWESTERN BELL VIDEO SERVICES  
SBC MEDIA VENTURES L.P.  
PACIFIC BELL  
PACIFIC TELESIS VIDEO SERVICES

*Lucille M. Mates*

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ROBERT M. LYNCH  
DURWARD D. DUPRE  
MARJORIE M. WEISMAN

One Bell Center, Room 3522  
St. Louis, Missouri 63101  
(314) 235-2509

NANCY C. WOOLF  
LUCILLE M. MATES

140 New Montgomery Street, Rm. 1526  
San Francisco, California 94105  
(415) 542-7654

Their Attorneys

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